

MELINDA HAAG (CASBN 132612)  
United States Attorney

J. DOUGLAS WILSON (DCBN 412811)  
Deputy Chief, Criminal Division

MATTHEW A. PARRELLA (NYSBN 2040855)  
JEFFREY D. NEDROW (CASBN 161299)  
Assistant United States Attorneys

150 Almaden Boulevard,  
San Jose, California 95113  
Telephone: (408) 535-5045  
Facsimile: (408) 535-5066  
Email: jeff.nedrow@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
BARRY LAMAR BONDS,  
Defendant.

No. CR 07-0732 SI

**PROPOSED JURY INSTRUCTIONS**

Trial: March 21, 2011  
Time: 8:30 a.m.  
Court: Hon. Susan Illston

The government respectfully requests that the Court charge the jury with the following jury instructions referenced and attached hereto in addition to those already identified in the Court's Order for Pretrial Preparation.

Depending on the evidence adduced at trial, some of the instructions included herein may not be appropriate, and some additional instructions may be required. Leave is respectfully requested to include such other additional instructions, or modifications of the attached instructions, as may become appropriate during the course of the trial.

PROPOSED JURY INSTRUCTIONS  
CR 07-0732 SI

DATED: February 24, 2011

Respectfully submitted,

MELINDA HAAG  
United States Attorney

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MATTHEW A. PARRELLA  
JEFFREY D. NEDROW  
Assistant United States Attorneys

**TABLE OF JURY INSTRUCTIONS****NINTH CIRCUIT  
MODEL JURY**

<b><u>NO.</u></b>	<b><u>INSTRUCTIONS</u></b>	<b><u>DESCRIPTION</u></b>
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2	2.2	BENCH CONFERENCES AND RECESSES
3	2.3	STIPULATED TESTIMONY
4	2.4	STIPULATIONS OF FACT
5	2.5	JUDICIAL NOTICE
6	2.7	TRANSCRIPT OF RECORDING IN ENGLISH
7	3.12	SEPARATE CONSIDERATION OF MULTIPLE
8		COUNTS
9	3.16	CORRUPTLY (18 USC § 1503)
10	4.1	STATEMENTS BY DEFENDANT
11	4.3	OTHER CRIMES, WRONGS OR ACTS OF
12		DEFENDANT
13	4.9	TESTIMONY OF WITNESSES INVOLVING
14		SPECIAL CIRCUMSTANCES – IMMUNITY,
15		BENEFITS, ACCOMPLICE, PLEA
16	4.17	OPINION EVIDENCE, EXPERT WITNESS
17	5.6	KNOWINGLY
18	7.6	COMMUNICATION WITH COURT
19	8.112	FALSE DECLARATION BEFORE GRAND JURY
20	Special #1	OBSTRUCTION OF JUSTICE
21	Special #2	ACTIVITIES NOT CHARGED
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23		OR OTHER ACTS OR STATEMENTS OF
24		OTHERS

**8.112 FALSE DECLARATION BEFORE GRAND JURY OR COURT**

**(18 U.S.C. § 1623)**

The defendant is charged in Counts One through Four of the indictment with having made a false declaration in violation of Section 1623 of Title 18 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant testified under oath before a grand jury;

Second, the testimony was false;

Third, the testimony was material to the grand jury before which he testified; and

Fourth, the defendant knew that the testimony was false and material to the matters before the grand jury.

A statement was material if it had a natural tendency to influence, or was capable of influencing, the decision of the decision-making body to which it is addressed.

**SPECIAL INSTRUCTION #1**

**COUNT FIVE—OBSTRUCTION OF JUSTICE**

(18 U.S.C. § 1503)

The defendant is charged in Count Five with obstruction of justice in violation of 18 U.S.C. § 1503. In order for the defendant to be found guilty of Count 5, the government must prove each of the following elements beyond a reasonable doubt:

1. The defendant corruptly, that is, for the purpose of obstructing justice,
2. Obstructed, influenced, or impeded, or endeavored to influence, obstruct, or impede, through one of the below-listed statements;
3. The grand jury proceeding in which defendant testified; and
4. The statement was material to the grand jury before which defendant testified; and

A statement was material if it had a natural tendency to influence, or was capable of influencing, the decision of the decision-making body to which it is addressed.

You must agree upon at least one of the following statements to have obstructed, influenced, or impeded the grand jury, or to have been made for the purpose of obstructing, influencing, or impeding the grand jury.

1. The Statement Contained in Count One
2. The Statement Contained in Count Two
3. The Statement Contained in Count Three
4. The Statement Contained in Count Four
5. Statement A

Q: Now, had you said during that conversation that you - - or had you denied ever taking steroids, now, with what you've seen today, do you feel comfortable as you sit here today saying that you have never taken steroids?

A: I feel very comfortable, very comfortable.

6. Statement B

Q: Let me move on to a different topic. And I think you've testified to this. But

1 I want to make sure it's crystal clear. Every time you got the flax seed oil and the cream, did you  
2 get it in person from Greg?

3 A: Yes.

4 Q: Is that fair?

5 A: Yes.

6 Q: And where would you typically get it? Where would you guys be when he  
7 would hand it to you generally?

8 A In front of my locker, sitting in my chair.

9 Q: Did he ever come to your home and give it to you?

10 A: Oh, no, no, no. It was always at the ballpark.

11 7. Statement C

12 Q: ...Do you remember how often he recommended to you about, approximately,  
13 that you take this cream, this lotion?

14 A: I can't recall. I don't – I wish I could. I just can't . . . I just know it wasn't  
15 often. I just think it was more when I was exhausted or tired than like a regular regimen. You  
16 know, it was like if I was really sore or something, really tired...that's – that's --- that's all I can  
17 remember about that.

18 Q: ... would you say it was more or less often or about the same as the amount of  
19 times you took the liquid, the flax seed oil, the thing you understood to be flax seed oil?

20 A: I don't know. I never kept track of that stuff. I'm sorry. I didn't sit there and  
21 monitor that stuff.

22 8. Statement D

23 Q: Did Greg ever give you anything that required a syringe to inject yourself  
24 with?

25 A: I've only had one doctor touch me. And that's my only personal doctor.  
26 Greg, like I said, we don't get into each others' personal lives. We're friends, but I don't – we  
27 don't sit around and talk baseball, because he knows I don't want – don't come to my house  
28 talking baseball. If you want to come to my house and talk about fishing, some other stuff, we'll

1 be good friends, you come around talking about baseball, you go on. I don't talk about his  
2 business. You know what I mean? ...

3 Q: Right.

4 A: That's what keeps our friendship. You know, I am sorry, but that – you know,  
5 that – I was a celebrity child, not just in baseball by my own instincts. I became a celebrity child  
6 with a famous father. I just don't get into other people's business because of my father's  
7 situation, you see...

8 9. Statement E

9 Q: Did Greg ever give you testosterone in injectable form for you to take?

10 A: No.

11 Q: Would you have taken it if he gave it to you?

12 A: He wouldn't jeopardize our friendship that way.

13 Q: And why would that – you're very clear that that would jeopardize your  
14 friendship. Why would that jeopardize your friendship?

15 A: Greg is a good guy. You know, this kid is a great kid. He has a child.

16 Q: Mm-hmm.

17 A: Greg is – Greg has nothing, man. You know what I mean? Guy lives in his car  
18 half the time, he lives with his girlfriend, rents a room so he can be with his kid, you know? His  
19 ex takes his kid away from him every single five minutes. He's not that type of person. This is  
20 the same guy that goes over to our friend's mom's house and massages her leg because she has  
21 cancer and she swells up every night for months. Spends time next to my dad rubbing his feet  
22 every night. Our friendship is a little bit different.

23 10. Statement F

24 Q: Now, earlier this year, February of this year, do you recall – were you giving  
25 him blood samples at that time, say, in February of this year? Do you remember giving him blood  
26 samples or urine samples?

27 A: February back – I can't recall. I don't know.

28 Q: Okay.

1 A: I don't know. That's too far back for me to know.

2 Q: I'm talking about this year.

3 A: Talking February.

4 Q: February of this year.

5 A: It's December.

6 Q: Right. I understand.

7 A: I don't recall February – if I gave him blood in February.

8 11. Statement G

9 Q: And you wouldn't talk about issues relating to steroids with him, would you?

10 A: Like I said, I mean, if you want to talk about me, the players probably talk  
11 about it more than anybody. You know, your normal friends, everyday people, I mean, you bring  
12 it up in conversation. If you're talking about pushed on me or saying "you should," no.

13 Q: My question goes back –

14 A: Conversations, possibly, yes.

15 Q: My question goes back to you and Mr. Anderson, not other players, not other  
16 people. Just conversations and contacts between yourself and Mr. Anderson. When [the  
17 prosecutor] asked you a while ago about that subject matter in relation to this investigation, you  
18 said" "We didn't talk about any of that stuff," basically, relating to this investigation, steroids, or  
19 whatever?

20 A: Right.

21 Q: Mr. Anderson and you would not talk about that. You didn't want to talk  
22 about that. Is that right?

23 A: I don't want to know anything. That's exactly right.

24 U.S. v. Thomas, 612 F.3d 1107, 1128-1131 (9<sup>th</sup> Cir. 2010).

**SPECIAL INSTRUCTION #2**

**ACTIVITIES NOT CHARGED**

The defendant is on trial only for the crimes charged in the third superseding indictment,  
not for any other activities.

**SPECIAL INSTRUCTION #3**

**EVIDENCE OF OTHER ACTS OF DEFENDANT OR ACTS AND STATEMENTS  
OF OTHERS**

You are here only to determine whether the defendant is guilty of the charges in the third superseding indictment. Your determination must be made only from the evidence in the case. The defendant is not on trial for any conduct or offense not charged in the second superseding indictment. You should consider evidence about the acts, statements, and intentions of others, or evidence about other acts of the defendant, only as they relate to this charge against this defendant.